

1301 Pennsylvania Avenue, NW
Suite 403
Washington, DC 20004-1701
USA

Telephone 202 628 8421
Fax 202 628 8424
E-mail:oitp@alawash.org

Office for Information
Technology Policy

EX PARTE OR LATE FILED

ALA American Library Association

April 29, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW Room 222
Washington, DC 20554

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Federal Communications Commission
Chief, Secretary

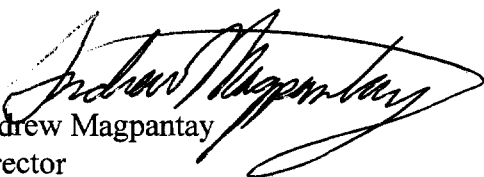
Re: Ex Parte Presentation
CC Docket No: 96-45, Federal-State Joint Board on Universal Service

Dear Mr. Caton:

The Education and Libraries Networks Coalition respectfully submits the attached document pertaining to library and school operating procedures, procurement, consortia, fund administration, and the auditing process in Docket 96-45. This document is in response to questions posed at an April 2nd meeting held between members of EdLiNC and FCC staff.

If you have any questions regarding this filing, please contact me at 202/628 8421.

Sincerely,


Andrew Magpantay
Director
Office for Information Technology Policy
American Library Association

Enclosure

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1301 Pennsylvania Avenue, NW
Suite 403
Washington, DC 20004-1701
USA

Telephone 202 628 8421
Fax 202 628 8424
E-mail: oitp@alawash.org
<http://www.ala.org/oitp/>

Office for Information Technology Policy

ALA American Library Association

April 25, 1997

Mark Nadel
Federal Communications Commission
2100 M Street, N.W.
8th Floor
Washington, DC 20554

Re: Ex Parte Presentation
CC Docket No: 96-45, Federal-State Joint Board on Universal Service

Dear Mr. Nadel:

This is in response to your request for information regarding our meeting on April 2.

Budgeting and Purchasing Plans:

At the time of the April 2 meeting, National School Boards Association (NSBA) submitted a copy of school district operating procedures which included information on public school budget development and approval as well as their competitive bidding and contracting guidelines. Similar materials were submitted by the American Association of School Administrators (AASA) on behalf of the American Association of Education Service Agencies (AAESA) on April 23 regarding the administration of education service agencies (the formal federal name of educational consortia).

Generally, private school administrators develop budget proposals and priorities that are submitted for approval to some form of authorizing body (board of trustees, parish finance committee, or other similar entity). While individuals schools may differ on specific budget procedures there are some common elements for private schools.

Departmental budget proposals are gathered and reviewed by the school head and business manager, most likely 8-10 months before the school's next fiscal year. Once the head and business manager have produced a preliminary budget, the school's authorizing body reviews and votes on it. The head returns the approved budget to department heads and professional staff. The head ultimately carries full responsibility for making expenditures, but often delegates some

responsibility to the business manager and appropriate department heads. Expenditures are monitored on a monthly basis and purchasing is usually handled through the business manager. Typically for purchases of technology, business managers produce RFP's based on a technology plan developed by the school's technology committee. Such plans include many elements such as hardware and software needs, teacher training requirements, maintenance, infrastructure, and ongoing costs. Multiple bids are sought based on the RFP. Any unforeseen budget revisions are reviewed and approved by the authorizing body.

Public libraries follow standard procurement procedures developed by the local governmental unit of which they are a part, or procedures approved by the library's governing board. These procedures will vary, just as local government practices and procedures vary. For example, the Arapahoe Library District in Colorado has a formal purchasing policy whereby they put everything out to bid that is over \$500, including telecommunication services such as T-1 lines. Some, for instance, will require taking the low bid. Others will involve criteria that aim for competitive, effective, and efficient results, but not necessarily the low bid.

Consortia:

In response to your question asking for additional data on the number of school and library consortia, the following figures have been provided by the American Association of Education Service Agencies (AAESA) and the American Library Directory Database¹.

Currently 31 states have education service agencies. Of the 31 states there are over 10,000 school districts in those states, representing 69.84 percent of all the districts in the nation. Many of these ESAs already work with non-public schools, and most, if not all, ESAs are involved with the technology aspects of their member districts.

According to the American Library Directory Database, there are 211 consortia in the U.S. that include public library systems and 114 that include school libraries. 95 consortia have both public and school libraries as members.

EdLiNC anticipates an increase in the number of these partnerships, in an effort to aggregate buying power, as discounts on telecommunications services become available.

Fund Administrator:

EdLiNC has supported the Joint Board's recommendation that discounted telecommunications services be available for the beginning of the 1997-1998 school year in its filings on Docket CC

¹*Publishing Market Place Reference Plus*, Bowker, Reed Reference Electronic Publishing, Reed Reference Publishing : New Providence, NJ, 1995.

96-45². EdLiNC recognizes that in order for such a timetable to be successfully met, any interim fund administrator must pass two broad tests. First, it must have experience in managing and collecting for a fund of the size recommended by the Joint Board. Second, it must be a neutral and impartial party to all entities affected by universal service, both the service providers and recipients of the discounted services.

Considering these two tests, as well as the speed with which the Joint Board has recommended that discounted services be made available to schools and libraries, EdLiNC urges the Commission to seek out an administrator that, as was referred to in paragraph 6 of the NPRM, has the ability and experience to deal with large-scale information processing and database capabilities, as well as an ability to calculate accurately the proper amount of each carrier's contribution and to apply carrier eligibility criteria consistently. The interim administrator would ideally have experience in dealing not just with service providers, but also with recipients of discounted telecommunications services, such as schools and libraries. At the very least, any potential interim administrator should be required to demonstrate a commitment to working with and dealing with recipients of discounted telecommunications services.

With respect to neutrality and impartiality any potential interim administrator should have to meet the criteria developed in the Recommended Decision, namely that the fund administrator, including its Board of Directors (1) be neutral and impartial; (2) not advocate specific positions to the Commission in non-administration-related proceedings; (3) not be aligned or associated with any particular industry segment; and (4) not have a direct financial interest in the support mechanisms established by the Commission³.

1. Board of Directors

EdLiNC only partially agrees with the statement in paragraph 2 of the NPRM in which it is tentatively concluded that "in order to be eligible to serve as the temporary administrator, NECA's Board of Directors must become more representative of the telecommunications industry as a whole." As the NPRM notes further on in paragraph 11, "other entities are likely to be affected under the Commission's universal service rules, either as contributors to universal service funds, providers of universal service, or *recipients of discounted services*" (emphasis added), which would include schools and libraries. The Joint Board's Recommended Decision notes several instances in which the fund administrator would have significant impact on schools and libraries: the fund administrator would be the required receiver and distributor of

²ALA comments on Joint Board Recommended Decision, December 19, 1996 at 15.

³Federal-State Joint Board on Universal Service Recommended Decision, November 7, 1996 at 830.

information on services sought⁴; the auditor of self-certification from schools and libraries⁵; and a tracker of information advising on the progress schools and libraries are making in obtaining access to telecommunications and other information services⁶. Because of this ongoing interaction with the school and library community, in order to establish credibility and confidence in the universal service system, NECA, or any other interim fund administrator, must have a board that represents not just the telecommunications industry, but also those who are the recipients of discounted services under universal service. In order to most effectively fulfill the duties of the fund administrator in regard to this interaction, as outlined in the Joint Board recommended decision, NECA staff, who are responsible for dealing with recipients of discounted services, should also demonstrate a familiarity with school and library operating procedures as well as with the ways advanced telecommunications services are integrated into schools and libraries.

EdLiNC supports the removal of any regulatory barriers to the fund administrator's rendering itself a neutral third party. Toward this end, EdLiNC supports the notion that NECA, if it is to be considered an interim fund administrator, be required to add to its Board additional directors representing non-LEC carriers and recipients of discounted services.

Should the Commission decide on NECA as the interim fund administrator, EdLiNC recommends that the Commission require NECA to restructure its board of directors so that there is at least one-third public representation and one-third non-incumbent LEC carrier representation. EdLiNC recommends that this be the structure for any fund administrator board. The non-LEC carriers representation would include competitive access providers, interexchange carriers, local exchange entrants, or wireless providers. The public representation would come from each of the groups for which universal service support was intended, i.e., consumers, libraries, schools, and rural health care providers. Appropriate national organizations, such as EdLiNC and others, should be allowed to nominate directors to the board of any interim or permanent fund administrator.

EdLiNC acknowledges NECA's January 10, 1997 ex parte to the Federal Communications Commission in which it proposes that, in order to meet the Joint Board's criteria for a neutral third party fund administrator, NECA "would establish a wholly owned subsidiary, a universal service administrative company (USAC), to administer the program." In that letter, NECA further explains that "the USAC would have a balanced, representative board that would be based on commission recommendations and would include some representation from the NECA board." EdLiNC supports any effort to ensure that the permanent fund administrator be a neutral,

⁴Federal-State Joint Board on Universal Service Recommended Decision, NOVEMBER 7, 1996 AT 539.

⁵Id. At 605.

⁶Id.

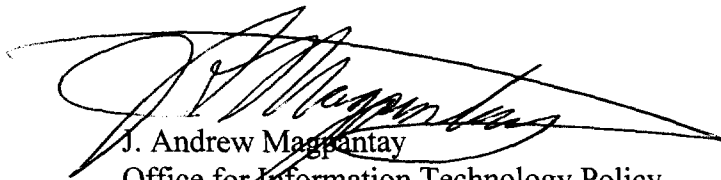
impartial body, representative of interested parties.

It is important that the Commission ensure that adequate representation of the interests and concerns of the wider community for whom universal service support was intended are present on the universal service advisory board and are manifest in the policies and procedures of both the temporary and permanent fund administrator. A related issue is the unfamiliarity by most of the school and library community with procedures related to rate regulation and fund administration. EdLiNC believes that outreach and education in these areas can help smooth the transition process towards implementation of the Joint Board Recommended Decision and EdLiNC offers its assistance in these efforts.

2. Auditing Procedures

EdLiNC would again emphasize, as it did in the ex parte submitted at the time of the April 2 meeting, that it is imperative that the auditor be a neutral third party. We recommend that the Fund Administrator randomly audit some amount of applicants to determine payment for services, level of discount, and the existence of a technology plan. Entities not found in compliance would be required to remedy the error. However, as with any of the procedural steps in the overall administration of this program, existent audits, plans or other processes should be used in the report, analysis, and evaluation process. No new bureaucratic procedures should be established. As the Joint Board recommends in Paragraph 605, "schools and libraries, as well as carriers, [should] be required to maintain for their purchases of telecommunications and other covered services at discounted rates *the kinds of procurement records that they already keep for other purchases.* (Emphasis added)]"

Sincerely,



J. Andrew Magrantay
Office for Information Technology Policy
American Library Association

Attachment

CC: Mr. William F. Caton

1 Publishing Market Place Reference Plus, Bowker, Reed Reference Electronic Publishing, Reed Reference Publishing: New Providence, NJ, 1995.

2 ALA comments on Joint Board Recommended Decision, December 19, 1996 at 15.

3 Federal-State Joint Board on Universal Service Recommended Decision, November 7, 1996 at 830.

4 Federal-State Joint Board on Universal Service Recommended Decision, November 7, 1996 at

539.

5 Id. at 605.

6 Id.

Post-it® Fax Note	7671	Date	4/25/97	# of pages	10
To	Andrew	From	Jerry Pickens		
Co./Dept.		Co.	Mesa Cty, Lib		
Phone #		Phone #			
Fax #		Fax #			

Mesa County Public
Library District

Grand Junction
Co 81501

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SECTION 1

GENERAL PURCHASING POLICY

The Purchasing Policies and Procedures Manual shall be a source of purchasing information and procedures for centralized purchase of all library materials, commodities, contractual services, equipment, and reimbursement for expenses incurred as a result of employment with Mesa County Public Library District.

The Business Manager with concurrence of the Library Director may waive regulations in this manual if it is determined to be in the best interest of the District or necessary in emergency situations. An emergency situation exists when a delay would create a potential loss of personal or public property, a possible injurious situation to either employees or citizens, or in situations dictated by time constraints beyond the District's control.

Any attempt to realize personal gain through gratuities and kickbacks is prohibited. District employees and members of the Board of Trustees or their immediate families (as defined on page 3-2, Nepotism, Personnel Policies and Procedures Manual) who have the ability to furnish the District with goods or services outside of normal job description duties and who have filed a Public Disclosure Record (see page 8-26) may apply to the Business Office for inclusion in a vendor's list. Public Disclosure Record forms and instructions are available in the Business Office. Solicitation or request of monetary discounts for personal gain by individual District employees and members of the Board of Trustees from vendors is prohibited. Discounts from vendors made available to all employees and members of the Board of Trustees shall be permitted.

This manual shall apply to every expenditure of public funds by the District for public purchasing irrespective of the source of funds. When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal law and regulations. Nothing in this manual shall prevent the District from complying with the terms and conditions of any grant, gift or bequest that is otherwise consistent with law.

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SECTION 2

PURCHASING AUTHORITY

The following positions and job titles identify the appropriate authority and responsibility for purchasing functions:

BOARD OF TRUSTEES - Through adoption of the annual budget and appropriations as required by law, the Board of Trustees authorizes all purchases necessary to implement the budget. All budgeted purchases and contracts for services amounting to more than fifteen thousand dollars (\$15,000.00), and change orders amounting to an excess of 30% of a total contract, must be approved by the Board of Trustees.

All insurance benefits to be made available to District employees shall be determined by the Board of Trustees.

Any purchases or expenditures not contemplated in the approved budget over the amount of five thousand dollars (\$5,000.00) shall be authorized at a public meeting of the Board of Trustees and included in a budget amendment, also approved by the Board of Trustees at a public meeting.

LIBRARY DIRECTOR - The Library Director shall:

1. have general oversight responsibility for implementation of the District budget as approved by the Board of Trustees,
2. approve contracts and expenditures over five thousand dollars (\$5,000.00) and less than fifteen thousand dollars (\$15,000.00),
3. authorize requisitions, requests for payments, and purchase orders in the absence of the Assistant Director or Business Manager.

ASSISTANT LIBRARY DIRECTOR - The Assistant Library Director shall:

1. authorize requisitions, requests for payment and purchase orders for the branches and operating centers in the absence of the center head,
2. have the same authority and responsibility as the Library Director in the absence of the Director.

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LIBRARIAN III (AUTOMATION MANAGER) - The Librarian III (Automation Manager) shall authorize requisitions, requests for payment and purchase orders for technical services and all District automation purchases.

LIBRARIAN II - The Librarian II shall initiate requisitions, requests for payment and purchase orders from the appropriate center.

LIBRARY ASSISTANT III (CHECK-OUT) - The Library Assistant III shall initiate requisitions, requests for payment and purchase orders for supplies for the checkout center and refunds to patrons for lost book charges.

BUSINESS MANAGER - The Business Manager shall:

1. authorize requisitions, requests for payment and purchase orders for the Business Office,
2. review all requisitions, requests for payment and purchase orders and determine if the item, service or reimbursement requested is consistent with the approved budget,
3. approve service and maintenance contracts under five thousand dollars (\$5,000.00),
4. unless otherwise specified, administer all contracts for construction or services,
5. approve purchases of less than five thousand dollars (\$5,000.00) on an open market or sealed bid basis,
6. act to procure for the district the highest quality in supplies and contractual services at least expense to the district,
7. endeavor to encourage competition by obtaining as full and open competition as possible on all purchases and contracts,
8. establish, review and recommend amendments when necessary to rules and regulations authorized by this manual,
9. prescribe and maintain such forms as are necessary for compliance with the purchasing manual,
10. act so as to procure for the District all tax exemptions to which it is entitled,

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11. exercise supervision over the District's central stores and general supervision over all other inventories of supplies and equipment belonging to the District,
12. sell, trade, or otherwise dispose of surplus supplies and equipment belonging to the District.

LITERACY DIRECTOR - The Literacy Director shall authorize requisitions, requests for payment and purchase orders for the literacy program.

VOLUNTEER COORDINATOR - The Volunteer Coordinator shall authorize requisitions, requests for payment and purchase orders for volunteer and Friends of MCPLD activities.

ALL EMPLOYEES - All employees shall prepare requisitions, requests for payment and purchase orders in compliance with this manual and submit them to the appropriate authority for approval.

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SECTION 3

METHODS AND PROCEDURES FOR SOURCE SELECTION

Methods and procedures for source selection are designed to provide for the purchase of high quality goods, materials, equipment and services at reasonable cost in a timely manner. An open and competitive environment will be maintained to ensure that all qualified buyers and sellers have access to District business and that all purchasing actions are conducted fairly and impartially in the best interest of the district and Mesa County taxpayers. Books and other library materials may be purchased on a sole source basis or through contracts with vendors identified by center heads authorized to select items for the library collection. Authorization by appropriate authority will be required. For purchases other than library materials to be added to the collection, the following regulations shall apply:

3-1. OPEN MARKET PURCHASES OF \$10.00 OR LESS

Reimbursement for authorized purchases by employees of ten dollars (\$10.00) or less will be made by the Business Office. A petty cash reimbursement form authorized by the employee's supervisor and approved by the Business Manager accompanied by receipts is required.

3-2. OPEN MARKET PURCHASES OF \$50.00 OR LESS

Purchases of up to fifty dollars (\$50.00) may be made in the open market from any available source by any employee provided the expenditure has been approved by the proper authority and is consistent with the approved budget. Reimbursement for purchases of over ten dollars (\$10.00) but less than fifty dollars (\$50.00) will require a properly approved request for payment accompanied by a receipt.

3-3. QUOTATIONS/OPEN MARKET PURCHASES MORE THAN \$50.00 BUT LESS THAN \$500.00

Purchases of more than fifty dollars (\$50.00) but less than five hundred dollars (\$500.00) may be made on the open market or the Business Office may solicit quotations on a yearly basis from no less than three (3) vendors. Award shall be made to the business/vendor offering the lowest acceptable quotation (lowest and best). At the discretion of the Business Manager, quotations may be sought on a more frequent basis.

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3-4. QUOTATIONS/OPEN MARKET PURCHASES \$500.00 - \$15,000.00

Any procurement of supplies, materials, equipment or services costing less than \$15,000.00, or in any amount the Business Manager with the concurrence of the Library Director may determine, may be made without newspaper advertisement and without observing the procedure described in the award of competitive sealed bids or proposals. Quotations may be obtained by the Business Office in the following manner:

1. in person
2. over the telephone
3. facsimile machine
4. written quotation

Award of proposals or bids will be given to the most responsible and qualified vendor with the best price (lowest and best).

3-5. COMPETITIVE SEALED BIDS - OVER \$15,000.00

Any expenditure for supplies, materials and equipment or any contract obligating the District in excess of fifteen thousand dollars (\$15,000.00), or in an amount the Business Manager with concurrence of the Library Director deems to be in the best interest of the District, and all major capital expenditures shall be purchased under competitive sealed (formal) bid procedures. Those procedures are as follows:

A. Public Notice

Purchases estimated to be fifteen thousand dollars (\$15,000.00) or more shall be published twice in a general circulation newspaper, and published at least five (5) days preceding the last day set for the receipt of proposals. The newspaper notice shall include a general description of the articles to be purchased or service to be provided, where bid notice and specifications may be secured, and the time for opening bids.

B. Competitive Sealed Bid Procedure

1. Invitation for Bids (IFB): the notice inviting bids will set forth the time and date within which

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the bids must be submitted and the procedures to be followed in receiving and opening bids. Invitations will also convey contractual terms, pre-bid conferences and conditions applicable to the bid participants.

The IFB will indicate where the contract documents may be secured by name and address of the office. The invitation for bids will detail any other special considerations being requested by bidders such as bid bonds, performance and payment bonds, or pre-bid conference time and place.

2. Specifications: Specifications will be made available to all interested parties as stated in the IFB. If for any reason whatsoever it is necessary to change the specification, or any other of the formal data, and there is time prior to the date of bid opening, an addendum will be issued setting forth the changes. Specification changes must allow adequate notice and mailing time. This addendum will be mailed to everyone who received a copy of the invitation for bids. In certain cases the bid opening may be postponed to allow adequate time for respondents to prepare their bid based on specification changes. If there is not sufficient time, the invitation for bids will be cancelled and new bid process initiated.

3. Bonding:

Bid and performance bonds or other security may be requested for supply contracts or service contracts as determined by the Business Manager to be in the best interest of the District.

4. Bid Opening:

The opening of sealed bids will be conducted in a public meeting. Bids will be opened by the Business Manager, or designated representative, at the time and place specified in the invitation for bids. The following procedures shall apply:

- a. The envelopes in which the bids are sealed will be time stamped at the time of receipt and duly signaturized.

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- b. A final opportunity to submit bids before the opening commences will be offered. No bid will be accepted following the time specified in the IFB.
- c. The names of those who have bid will be announced, and inquiry made as to whether any bids submitted have been omitted.
- d. As the bids are opened, such details as are appropriate will be read and copied onto the bid tally record.
- e. The bid tally record is to be clear as to the basis for each award. This abstract will always declare the basis for the award and will become a part of the public record.
- f. The tally sheet will be signed by the person recording bids.

6. Review and Evaluation:

The Business Manager will perform the initial review and analysis of all bids. In bids concerning technical or complicated requirements, assistance may be sought from a professional in an appropriate field.

Providing that the requirements of the Purchasing Manual have been met and the bid is under five thousand (\$5,000), the Business Manager will make the award. Budgeted purchases over five thousand dollars (\$5,000.00) and under fifteen thousand dollars (\$15,000.00) shall be awarded by the Library Director. Budgeted purchases over fifteen thousand dollars (\$15,000.00) and unfunded purchases over five thousand dollars (\$5,000.00) must be approved by the Board of Trustees.

7. Bid Closing:

The Business Office will keep a record of completed bids. Bids requiring contracts, bonding and insurance will be held by the Business Office until the contractor is in total compliance with bid specifications and conditions. When total compliance is determined by the Business Manager, a notice to proceed will be issued. Final contract documents will be on file in the Business Office.

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8. Public Record:

Those who bid, and the general public are entitled to know who all the bidders are, how much they bid and on what basis the award was made. This information is a matter of public record and will be available to all interested parties upon written request.

9. Alternate Bids:

Alternate bids may be required whenever it is deemed desirable or necessary by the Business Manager with concurrence of the Library Director.

10. Correction or Withdrawal of Bids:

Correction or withdrawal of bids after opening is prohibited unless special circumstances exist. Initiation of changes must have the prior approval of the Business Manager with concurrence of the Library Director. Justification shall be submitted in writing.

11. The Business Manager may notify prospective bidders that a pre-bid conference has been scheduled in an attempt to clarify for vendors the intention of bid specifications and expectations of the District. Conferences may be scheduled before or after invitations to bid have been issued. The pre-bid conference is an attempt to facilitate the accuracy and comprehensiveness of the bid process.

3-6. COMPETITIVE SEALED PROPOSAL

Competitive sealed Requests for Proposals (RFP) may be issued in circumstances related to the procurement of complex, professional, technical and expert services, or the purchase of nonstandard items.

- A. Proposal evaluation criteria should measure how well each vendor meets the desired performance requirements established before proposals are received. Final consideration for awarding of contract shall not be based solely on price. A combination of price, quantity and/or quality offered, and capacity to fulfill all requirements of the contract shall be considered for evaluation purposes (lowest and best).

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- B. Post-opening discussions of proposals with vendors shall be allowed. Final agreement on terms may be negotiated under a proposed contract.

3-7. PROFESSIONAL SERVICES

- A. Services of licensed professionals or consultants up to five thousand dollars (\$5,000.00) shall be approved by the Business Manager.
- B. Services of licensed professionals or consultants of more than five thousand (\$5,000.00) but less than fifteen thousand (\$15,000.00) shall be approved by the Library Director.
- C. Services of licensed professionals or consultants exceeding fifteen thousand dollars (\$15,000) shall require approval by the Board of Trustees.
- D. No contract for the services of legal counsel may be awarded without approval of the Board of Trustees.

3-8. SOLE SOURCE CRITERIA

Procurement of some supplies, equipment and services shall be permitted on a sole source basis providing the following criteria are met:

- A. supplies, equipment or service is not readily available from more than one supplier or manufacturer,
- B. the overriding consideration for purchase is compatibility or conformity with library owned equipment or materials in which nonconformance would require the expenditure of additional funds,
- C. continuity of service or maintenance of library owned equipment is a primary consideration.

The Business Manager with concurrence of the Library Director shall determine if the criteria for sole source procurement has been met.